Appeal Nos. 2016-2527, -2733, and -2734

IN THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

INTEGRATED CLAIMS SYSTEMS, LLC,
Appellant,
v.
CARE N' CARE INSURANCE COMPANY, INC., AND TRIZETTO CORPORATION,
Appellees.

Appeal from the United States Patent and Trademark Office in Case Nos. CBM2015-00062, CBM2015-00063, and CBM2015-00064

BRIEF FOR APPELLEES

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CERTIFICATE OF INTEREST

1. The full name of every party represented by us is:
Care N' Care Insurance Company, Inc. and TriZetto Corporation.

2. The name of any real party in interest represented by us, and not identified in response to Question 3, is: N/A.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party represented by us are:

Care N' Care Insurance Company, Inc. states that its immediate parent company is Silverback, LLC, and its ultimate parent company is North Texas Specialty Physicians (NTSP). Care N' Care states that no publicly held corporation owns 10% or more of its stock.

TriZetto Corporation states that it is an indirect wholly-owned subsidiary of Cognizant Technology Solutions Corporation, which is a publicly traded corporation.

4. The names of all law firms and the partners or associates who appeared for the party now represented by us in the agency or are expected to appear in this Court are:

Kirkland & Ellis LLP: Gianni Cutri; Jared Barcenas.

/s/ Gianni Cutri

Gianni Cutri

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STATEMENT OF RELATED CASES

Pursuant to Fed. Cir. R. 28(a)(4) and 47.5, Appellees state that to the best of their knowledge:

1. No appeal from the same Board proceedings was previously before this or any other appellate court.

2. On March 30, 2016, the Board issued a Final Decision in Case No. CBM2014-00187 (*Travelers Lloyds Of Texas Insurance Co. and The Travelers Indemnity Co. v. Integrated Claims Systems, LLC*, Paper 31) ("'187 *Travelers* Proceeding"), finding claims 27, 30, 36, 42, 43, 45, and 50-52 of the '020 Patent unpatentable. ICS appealed that decision to this Court, and a hearing for the appeal was held on April 7, 2017. *See* Appeal Nos. 2016-2163 and 2016-2164. On April 11, 2017, the Federal Circuit affirmed the Board's findings under Fed. Cir. R. 36. *See* Appeal No. 2016-2163, Dkt. No. 41.

3. The '020 Patent has been asserted in *Integrated Claims Systems, LLC v. Care N' Care Insurance Co., Inc.*, 3:15-cv-3376 (NDTX). That case is currently pending.

4. The '609 Patent has been asserted in *Integrated Claims Systems, LLC v. Care N' Care Insurance Co., Inc.*, 3:15-cv-3376 (NDTX),

Integrated Claims Systems, LLC v. Old Glory, 2:15-cv-0412 (EDTX), *Integrated Claims Systems, LLC v. Seton*, 2:15-cv-0427 (EDTX), and *Integrated Claims Systems, LLC v. Travelers*, 3:14-cv-0892 (DCT). Those cases are currently pending.

5. There are no other cases pending in any court that will directly affect or be directly affected by the Federal Circuit's decision in this appeal.

STATEMENT OF THE CASE

PTAB rulings on three related CBM Review petitions filed by Appellees Care N' Care Insurance Company, Inc. and TriZetto Corporation (collectively, "Appellees" or "TriZetto") invalidated all of the claims at issue in this appeal. On June 21, 2016, the PTAB issued a Final Written Decision finding that, pursuant to one of those petitions, all challenged claims (*i.e.*, claims 81 and 83–88) of the '609 patent were invalid under Section 101. Appx130. On July 28, 2016, the PTAB issued two additional Final Written Decisions on the other two petitions, finding that all challenged claims (*i.e.*, claims 1, 6, 8, 9, 12, 13, 15, 20, 21, 24, 25, 27, 30, 36, 42–45, and 49–52) of the '020 patent were invalid under Sections 101, 102, and/or 103. Appx 1, Appx70.

Appellant Integrated Claims Systems, LLC ("Appellant" or "ICS") appealed the Board's findings and has refused to withdraw this appeal, even though this Court has already confirmed, in an earlier appeal, that the '020 patent is eligible for CBM review and that claims 27, 30, 36, 42, 43, 45, and 50–52 of the '020 patent—also at issue here—are invalid under Section 101. *See* '187 *Travelers* Proceeding, Consolidated Case Nos. 2016-

2163, 2016-2164, Dkt. No. 41 (Fed. Cir. Opinion & Judgment). ICS now puts forth substantively identical arguments about CBM review eligibility and invalidity under Section 101 as it did in the '187 *Travelers* Proceeding, and the Court should similarly affirm the PTAB's rulings here.

ICS' arguments in the instant appeal are simply not supported by the claims nor the specifications of the '020 and '609 patents. The claim language does not recite the "buffer computer" and purported technological invention as ICS contends, and instead the claim language recites only conventional elements arranged in a conventional manner. ICS' entirely new proposed claim construction for "fields" fares no better. Not only has this Court "frequently declined to hear arguments that the applicant failed to present to the Board," *In re Watts*, 354 F.3d 1362, 1367–68 (Fed. Cir. 2004), but even now ICS does not provide any expert testimony or support for its new position, which is instead pure attorney argument.

This Court also should affirm the Board's findings that all challenged claims of the '020 patent are anticipated and/or obvious in view of two prior art references: Lech and Beizer. Indeed, the Board's findings with respect to Section 101 are strengthened by the fact that Lech, an anticipating reference in this case, was itself found directed to patent-ineligible subject matter by this Court.

STATEMENT OF FACTS

I. The Patents

The '020 patent, titled "Attachment Integrated Claims System and Operating Method Therefor," was filed in July 2002. Appx192. The '020 patent purports to relate to "an AIC [attachment integrated claims] system for preparing and processing digital insurance claims," in order "to create a coherent system that allows for the electronic filing, transmission, and processing of 'insurance claims with attachments.'" Appx202(1:23-25); Appx205(8:14-17).

Similarly, the '609 patent is titled "Attachment Integrated Claims Systems and Operating Methods Therefor," and was filed in January 2007 as a continuation of the application that became the '020 patent. Appx218. The '609 patent also purports to claim methods relating to the processing of insurance claims—Claim 81, for example, claims "A computer implemented method, for processing electronic communications, the method comprises the steps of: receiving . . . an electronic communication . . . wherein at least some of the N1 identifiable data fields comprise insurance transaction data . . .; storing the electronic communication . . .;

[and] processing the electronic communication . . . wherein the second digital data comprises insurance transaction data . . . ." Appx254(Claim 81).

The patents attempt to address an alleged business problem, *i.e.*, how to process insurance claims that have attachments. *See* Appx205 (8:14–19) (purpose of purported invention is "to create a coherent system that allows for the electronic filing, transmission, and processing of 'insurance claims with attachments'"); *see also* Appx233(8:15-21). According to the challenged patents, a coherent system "for the electronic filing, transmission, and processing of insurance claims" already existed and was "employed by thousands of [healthcare] providers and hundreds of insurance companies" at the time the '020 and '609 patents' applications were filed. Appx202(2:51–54); Appx231(3:1–2). However, according to the challenged patents, there were still some types of claims—known as "claims with attachments"—that were handled using a "hybrid" system involving some electronic and some manual (i.e., hard copy / paper) processing. Appx202(2:62–66); Appx203(3:58–66); Appx233(7:57–61). Thus, the applicants for the patent acknowledged that processing claims with attachments was well-known, but that the process was still partially manual (*i.e.*, paper-based). Continuing to process these claims partially in paper form was allegedly "labor intensive, prone to problems, and slow," which the patentee says made it "time-consuming, costly and irritating." Appx203(3:66–4:2). The proposed solution to the alleged problems of paper-based processing of insurance claims with attachments was to "computerize[] this process," which the patent describes as "[t]he natural next stage in the development of claims processing systems." *Id.* at 3:18–20. The challenged patents' alleged invention, according to the applicants, was "motivated by the desire to overcome the problems associated with the . . . hybrid system for processing" claims with attachments. Appx205(7:66–8:1). Accordingly, the challenged patents aim to solve the alleged problem of inefficiency in a particular business process, that is, the processing of paper-based insurance claims.

II. Patent Office Proceedings

The Board instituted CBM review for claims 1, 6, 8, 9, 12, 13, 15, 20, 21, 24, 25, 27, 30, 36, 42–45, and 49–52 of the '020 patent and claims 81 and 83–88 of the '609 patent. Appx2; Appx71; Appx131. The Board found all of the challenged claims unpatentable under 35 U.S.C. § 101, and further found claims 1, 6, 9, 15, 20, 27, 42–45, and 49–52 the '020 patent invalid under 35 U.S.C. § 102 and claims 6, 8, 12, 13, 20, 21, 24, 25, 30, 36, and 42 of the ’020 patent invalid under 35 U.S.C. § 103. Appx68; Appx 128; Appx155–156.

Additionally, nine claims of the ’020 patent were challenged by Travelers Lloyds of Texas Insurance Company and The Travelers Indemnity Company (collectively, “Travelers”) in a different CBM review proceeding at the PTAB where they were found to be eligible for CBM review and invalidated, and this Court affirmed that ruling. Specifically, in the ’187 *Travelers* Proceeding, Travelers argued that claims 27, 30, 36, 42, 43, 45, and 50–52 of the ’020 patent were eligible for CBM review, and were invalid as claiming an abstract idea (hereainafter the “Already Invalidated Claims”). In the ‘187 *Travelers* Proceeding, ICS challenged CBM review eligibility of the ‘020 patent and made arguments about validity under Section 101, which the Board rejected. ICS appealed the Board’s decision to this Court, which, on April 11, 2017, affirmed under Rule 36 that the ’020 patent is CBM eligible and all challenged claims were invalid. *See* Appeal No. 2016-2163, Dkt. No. 41.

ICS’ arguments about CBM eligibility and invalidity under Section 101 with respect to the ’020 patent are substantially similar to (and in some instances are verbatim repeats of) those raised in the '187 *Travelers* Proceeding, and are of no avail here either. *Compare, e.g.*, Appeal No. 2016-2163, Dkt. No. 15 (Appellant's Brief) at 38 ("The claims recite electronic systems that receive data (including digital attachments) in identifiable fields and use the identities of the fields to transfer the fields and create new files. The PTAB erroneously found that 'receiving data with fields' and 'receiving a file with identifiable fields' is each a well-known, routine, conventional activity previously known to the industry.'") *with* Appellant's Br. at 42 ("The claims recite electronic systems that receive data (including digital attachments) in identifiable fields and use the identities of the fields to transfer the fields and create new files. The Board erroneously found that 'receiving data with fields is a well-known, routine, conventional activity previously known to the industry.'"). ICS should not be allowed to raise the exact same unsuccessful arguments on appeal here again, especially where the Board and this Court have found, time and time again, that the '020 patent is CBM review eligible and that the Already Invalidated Claims are invalid.

A. Covered Business Method Eligibility

In determining that at least one claim of each patent was directed to a covered business method, the Board focused its attention on claims 8, 21, and 36 of the ’020 patent, particularly the limitation “wherein the unitary data stream comprises an insurance claim form,” as well as claim 81 of the ’609 patent which recites “processing electronic communications that include ‘insurance transaction data.’” Appx12; Appx81; Appx138. The Board found that the claimed methods are “used in” the administration or management of insurance claims, and “insurance is a financial product or service.” Appx12; Appx81; Appx139. Indeed, the Board found that Patent Owner “d[id] not appear to dispute that insurance is a financial activity.” Appx12; Appx81.

The Board further found that the challenged patents were not directed to a “technological invention.” As the Board explained, the patents do not recite a technological feature that is novel and unobvious over the prior art. Appx18; Appx87; Appx141. Instead, the Board noted that “[t]he parties do not dispute that ‘the hardware components recited by the Challenged Claims [of the ’020 patent] were known,’” since the recited “method for operating a digital device operatively coupled to the first and second networked components" (claims 27, 30, 36), "server having specialized software for causing the server to perform a process" (claims 42–45, 49), and "method of processing files formed of identifiable fields" (claims 50–52) are all conventional. Appx18; Appx87 (similar finding for independent claims 1 and 15 and their challenged dependent claims). The Board further found that "[t]he '020 patent describes the claimed invention generically without reference to any particular hardware device or specialized software or algorithm," because the recited "personal computers, buffer computers, and mainframe computers were known technological features." Appx18; Appx87–88 (citing '020 patent at 1:48–50 ("the introduction of the mainframe computer . . . allowed for electronic processing within a given insurance company"), 2:4–6 ("the electronic filing of claim forms . . . was made possible by the introduction of the personal computer"), 17:66–18:3 ("the GUI-capable buffer computer system 310 is a personal computer (PC) or a PC server which advantageously can be operated in parallel with but separate from the insurance company's mainframe computer 350")).

With regard to the '609 patent, the Board similarly found that, contrary to ICS' contention that "a computer receiving fields potentially containing digital attachments was not known," "in June of 1992, the MIME standard allowed a user to generate and then send virtually any kind of file in an email." Appx142. And, the Board found that "the '609 patent's disclosure that the software needed to implement the invention can be developed within the framework of LOTUS NOTES supports Petitioners' argument that the claimed method requires only generic tasks that could be done with conventional software." *Id.* Nor did the Board find that the '609 patent solves a technological problem using a technical solution because, "[i]n describing the problem it seeks to solve, the '609 patent focuses on reducing costs and enhancing efficiency of the claims review process," and "in its disclosure of the solution to these problems, the '609 patent describes only generic and conventional computer equipment such as mainframe computers, personal computers, modems, scanners, printers, and servers." Appx143.

B. Invalidity Under Section 101

The Board found that independent claims 1, 15, 27, 42, and 50 of the '020 patent, from which the other challenged claims depend, recite an abstract idea, namely, "the idea of transmitting or copying information from a source to a destination, [which is] a disembodied, well-known concept, *i.e.*, a basic building block of human ingenuity." Appx29; Appx97. Additionally, the Board found that the challenged claims "invoke computers merely as a tool," and that the asserted improvement—receiving data with fields and routing or copying a portion or subset of the fields—"is not an improvement in 'computer functionality' or capabilities, but instead. . . 'an improvement to data processing performed by a mainframe computer system or similar system.'" Appx31.

Similarly, the Board found that the challenged claims of the '609 patent were "directed to a process of receiving information, storing it, and determining which of its parts to enter into a display," which is an abstract idea per *Enfish* and *In re TLI*. Appx146; Appx 150–151 ("the claims at issue in this case recite 'generalized steps to be performed on a computer using conventional computer activity'" and "the '609 patent seeks to reduce costs and enhance efficiency of the review process for insurance claims" but "fails to provide any technical details for the tangible components").

The Board also found that the challenged claims did not contain additional elements that would transform them into patent eligible subject matter. For example, the Board determined that "receiving a file with identifiable fields" and "copying part of the first file to a second file" were "well-known, routine conventional activit[ies] previously known to the industry," noting that the '020 patent itself acknowledges that health care providers could fill out electronic claim forms to be transmitted to an insurance company, and that patients could complete the applicable portions of a PAC form and send it to a health care provider. Appx42–44; Appx103–108. The Board further found that the functions recited in claim 81—"receiving data in fields, storing data in memory, determining which data to enter for display using a generic 'logic process,' and displaying data" —are all "well-understood, routing, conventional activities" and "are not tied to any particular novel machine or apparatus, only a general purpose computer." Appx154. Thus, all challenged claims of the '020 and '609 patents were found unpatentable under Section 101.

C. Invalidity Under Sections 102 and 103

The Board separately found all challenged claims of the '020 patent invalid under Sections 102 and/or 103, relying on two references in doing so: Lech and Beizer. U.S. Pat. No. 5,258,855 to Robert Lech, *et al.* (hereinafter "Lech") relates to methods and apparatuses for electronically extracting and processing data received from hard copy documents in order to "minimize[] the need to manually process hard copy documents." Appx286(1:5–10).

The systems and methods of Lech "allow[] a user to select specific portions of information extracted from a diversity of hard copy documents and . . . direct portions of this information to several different users in accordance with the needs of the particular user." Appx286(2:14–18). In an exemplary embodiment, a hard copy document, such as a bill, is put into an automated digitizing unit such as a conventional scanner, and then the document image, extracted textual information, or both are send to a computer. Appx271(Fig. 1); Appx287(4:53-61); Appx288(5:1-2, 5:59-65); Appx293(15:58-60). The computer is able to "pars[e] information extracted from the hard copy document and . . . direct[s] this parsed information to specific users or application programs as an input file." Appx287(4:45-49); Appx288(5:25–29); Appx290(9:27–30, 10:14–16). The extraction and parsing of information can happen either automatically in accordance with predefined "content instructions" (for example, templates which specify the location of information on the hard copy document) or interactively with user input. Appx286–287(2:60–3:25); Appx289–290(8:68–9:2); Appx292(13:67–14:10). These "application programs" to which the input files are sent can be, for example, specific departments within a company, such as the accounting department or mailroom, and each department has its own application program which utilizes information in the input files. Appx286(1:34–44); Appx292(13:57–64, 13:67–14:10). Notably, not only is Lech an anticipating reference in this case, but the Federal Circuit, in *Content Extraction & Transmission v. Wells Fargo Bank, N.A.,* confirmed that Lech's disclosures were insufficient to render any of its own claims patent-eligible under Section 101. 776 F.3d 1343, 1348 (Fed. Cir. 2014) (challenged claims "merely recite the use of … existing scanning and processing technology to recognize and store data from specific data fields such as amounts, addresses, and dates. There is no 'inventive concept' in CET's use of a generic scanner and computer to perform well-understood, routine, and conventional activities commonly used in industry.") (citation omitted, *cert. denied*, 136 S. Ct. 119 (2015).

The Board also found that U.S. Pat. No. 5,054,096 to Mordechai M. Beizer (hereinafter "Beizer") supplied disclosures that, in combination with Lech, rendered claims 6, 8, 12, 13, 20, 21, 24, 25, 30, 36, 42 of the '020 patent obvious. Beizer is titled "Method and Apparatus for Converting Documents into Electronic Data for Transaction Processing," and discloses a system for transaction processing large quantities of documents. Beizer teaches that documents are processed at workstations, where portions of data are copied into predetermined forms. Appx266(9:58–10:13). The information can then be transmitted to an archive, a mainframe, another workstation, another department, or remote location such as a hospital. Appx267(11:6–10, 12:11–14).

The Board's findings of anticipation and/or obviousness of all challenged claims of the '020 patent were further based on the "system for efficiently processing information originating from hard copy documents" disclosed in Lech and the method in which "documents are scanned upon receipt, and all subsequent operations are carried out on the basis of the image of the scanned document" disclosed in Beizer. Appx63–64; Appx68; Appx125; Appx128. The chart below summarizes the Board's findings in the instant case, as well as the Federal Circuit's findings in the '187 *Travelers* Proceeding:

	Invalid Under § 101	Invalid Under § 102 (Lech)	Invalid Under § 103 (Lech in view of Beizer)	Already Invalidated in '187 *Travelers* Proceeding
'020 Patent	All Challenged Claims:	1, 6, 9, 15, 20, 27, 42–45, 49–52	6, 8, 12, 13, 20, 21, 24, 25, 30, 36,	27, 30, 36, 42, 43, 45, 50–52

	1, 6, 8, 9, 12, 13, 15, 20, 21, 24, 25, 27, 30, 36, 42–45, 49–52		42	
’609 Patent	All Challenged Claims: 81, 83–88	N/A	N/A	N/A

SUMMARY OF ARGUMENT

The Board correctly found that the ’020 and ’609 patents are eligible for CBM review and that all challenged claims in both patents are invalid under Section 101. Moreover, the CBM eligibility and invalidity of certain claims of the ’020 patent have already been affirmed by this Court in the ’187 *Travelers* Proceedings. ICS does not argue that the Already Invalidated Claims are materially different from the other challenged claims in the instant proceeding, and ICS made substantially the same arguments regarding CBM eligibility and invalidity under Section 101 in its unsuccessful *Travelers* appeal as it does here.

All of the claims at issue here are CBM eligible. Challenged claim 36 of the ’020 patent and challenged claim 81 of the ’609 patent both explicitly mention “insurance,” which is a financial activity. Appx9 (Board noting that challenged claim 36 of the '020 patent recites "wherein the unitary data stream comprises an ***insurance claim form***") (emphasis added); Appx138 (Board noting that challenged claim 81 of the '609 patent "recites processing. . . '***insurance transaction data***'") (emphasis added); Appx12 ("We also agree that insurance is a financial product or service. . . . Patent Owner states that the challenged claims 'have no bearing on the financial activity of insurance' . . . and thus does not appear to dispute that insurance is a financial activity."); Appx81; Appx139.

Additionally, the challenged claims of the '609 patent are very similar to those of the '020 patent and are directed to the same abstract idea, namely, transmitting and routing data. Thus, the Board's finding of invalidity of all challenged claims of the '609 patent should be affirmed.

The Already Invalidated Claims of the '020 patent, together with the other challenged claims of the '020 patent, are invalid for the additional reason that they are either anticipated by Lech because it discloses every single element of claims 1, 6, 9, 15, 20, 27, 42–45, and 49–52, or else are rendered obvious by Lech in view of Beizer, which supplies the additional elements in claims 6, 8, 12, 13, 20, 21, 24, 25, 30, 36, and 42. Specifically, the Board properly found that Lech discloses a hard copy document 100 that "is preferably scanned in and fields of information on it are recognized using standard optical character recognition software," and that therefore "Lech discloses that the output from the scanner is sent to the computer 230 and that the output includes information in fields, as shown in Figure 2 of Lech." Appellant's Br. at 49; Appx56. Thus, Lech discloses a unitary data stream receiving fields, and transferring, transmitting, and copying certain fields as required by the challenged claims of the '020 patent. ICS does not present ***any*** arguments on appeal with respect to the claims rendered obvious by the combination of Lech and Beizer, necessitating affirmation of the Board's findings on these claims as well.

ARGUMENT

I. The Board's Finding that the Asserted Claims Are Subject to Covered Business Method Review Was Not Arbitrary and Capricious

The Federal Circuit reviews the Board's determination that particular patents are subject to CBM review under the Administrative Procedure Act, specifically 5 U.S.C. § 706(2): "The reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be—(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance to law . . . [or] (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right . . . ." *Secure Axcess, LLC v. PNC*

Bank Nat'l Ass'n, No. 2016- 1353, 2017 U.S. App. LEXIS 2902, at *12 (Fed. Cir. Feb. 21, 2017). As explained below, ICS cannot meet its burden to overturn the Board's findings under this high standard.

A. The Board Applied the Appropriate Standard

Contrary to ICS' assertion that "[i]n reaching its decision here, the Board did not apply the statutory definition" and instead "inquired whether the patents claim activities that are 'financial in nature, incidental to a financial activity, or complementary to a financial activity'" (Appellant's Br. at 31), the Board performed the proper inquiry into whether the '020 and '609 patents qualified for CBM review. Specifically, the Board properly explained that "[a] covered business method patent 'claims a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service, except that the term does not include patents for technological inventions.' AIA § 18(d)(1). . . ." Appx11; Appx 80; Appx138 ("We first consider whether the '609 patent claims a method 'for performing data processing or other operations used in the practice, administration, or management of a financial product or service.' AIA § 18(d)(1).").

The Board's focus was on the claims, as both the '020 and '609 patents contain claims that cover methods and systems for performing data processing in the practice, administration or management of insurance. Appx9 (Board noting that challenged claim 36 of the '020 patent recites "wherein the unitary data stream comprises an ***insurance claim form***"); Appx138 (Board noting that challenged claim 81 of the '609 patent "recites processing. . . '***insurance transaction data***'") (emphases added).

ICS itself acknowledges that CBM patents include those "with claims that are directed to methods and apparatuses of particular types and with particular uses 'in the practice, administration, or management of a financial product or service'" Appellant's Br. at 32-33. Further, as ICS acknowledges, the specifications of the '020 and '609 patents "describe[] the submission of a PAC form. . . includ[ing] text, e.g., patient information, and a digital image, e.g., an x-ray," that is, "the inventions were described primarily through an insurance claim example." *Id.* at 33–34. Thus, there was nothing arbitrary or capricious about the Board's conclusion that the claims of the '020 and '609 patent "claim[] a method [and] corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service." AIA § 18(d)(1).

According to ICS, the Board erred by not "construing the claim[s] in light of the written description," but the Board ***did*** construe the claims in light of written description—the claims themselves, as well as the specification, are replete with examples of insurance, and ICS acknowledges that the claims are explained via a "PAC form." A PAC (Prior Approval Claim) form is the form that an insurance company must approve in order to authorize a particular procedure for an insurance patient. There is no question, then, that the specification and claims describe insurance "used in the administration. . . of a financial product or service."

B. The Board Properly Found the Claims Directed to the Administration of Insurance, Which Is a Financial Product or Service

1. Insurance Is a Financial Product or Service

Insurance is a financial product or service, and ICS has never argued otherwise. Instead, ICS has repeatedly argued that the activities claimed in the '020 and '609 patents "have no bearing on the ***financial activity of insurance***," but they have not contested that insurance is itself a financial activity. *See, e.g.*, Appx876; Appx956; Appx1029 (emphasis added). Indeed, the Board in its Final Written Decisions recognized that ICS did not challenge the fact that insurance is a financial activity, holding that ICS "thus does not appear to dispute that insurance is a financial activity." Appx12; Appx81. Accordingly, to the extent ICS now contends that insurance is not a financial product or service (*see* Appellant's Br. at 33-34), that argument should be rejected because it is being raised for the first time on appeal. *See In re Watts*, 354 F.3d 1362, 1367–68 (Fed. Cir. 2004); *Redline Detection, LLC v. Star Envirotech, Inc.*, 811 F.3d 435, 450 (Fed. Cir. 2015).

In any event, insurance is a financial product or service. As this Court has previously held, the definition of "covered business method patent" should be interpreted broadly: the "plain text of the statutory definition contained in § 18(d)(1) . . . on its face covers a wide range of finance-related activities." *Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1325 (Fed. Cir. 2015), *cert. denied*, 136 S. Ct. 2510 (2016); *see also* Appx11–12; Appx80; Appx140. Indeed, the Board has repeatedly confirmed that processing insurance data is a financial service. *See, e.g.*, *Mitchell Int'l, Inc. v. Audatex N. Am., Inc.*, CBM2014-00171, 2015 WL 832480, at *5 (PTAB Feb. 24, 2015) (at least one claim "used in the practice, administration, or management of a financial product or service" where "the challenged claims recite ***processing the insurance data*** to produce a 'valuation report' for a damaged vehicle, wherein the valuation report provides an adjusted market price for the vehicle") (emphasis added); *see also Gillman v. StoneEagle Servs., Inc.*, CBM2013-00047, 2014 WL 664017, at *5 (PTAB Feb. 18, 2014) (patent claims "a method . . . for performing data processing or other operations used in the practice, administration, or management of a financial product or service" (internal quotation marks omitted) where "the method involves the data processing of a single use payment card in the administration of a medical insurance benefit"). The Board in the instant CBM reviews likewise followed this well-established precedent, indicating that "we also agree that insurance is a financial product or service." Appx12; Appx81.

2. The Claims Are Directed to the Administration of Insurance

ICS' reliance on *Unwired Planet* for the proposition that the Board's recitation of the "incidental" or "complementary" standard was improper is inapposite. Appellant's Br. at 31. In its Final Written Decision, the Board correctly noted that challenged claim 36 of the '020 patent recites "wherein the unitary data stream comprises an ***insurance claim*** form." Appx9 (emphasis added). The Board's decision regarding CBM eligibility did not turn on a finding that the claims are "incidental" or "complementary" to a financial activity. Rather, the Board recognized that processing insurance claims is itself a financial activity and that at least one challenged claim in each patent was directed to that activity. As the Board pointed out, "[t]he statutory definition includes patents that claim a method 'for performing data processing or other operations ***used in*** the practice, administration, or management of a financial product or service' . . . AIA § 18(d)(1)," and the "insurance claim form" of claim 36 "is 'used in' the administration or management of insurance claims." Appx12 (emphasis added).

Similarly, the Board noted that claim 81 of the '609 patent, from which all other challenged claims depend, "recites processing electronic communications that include 'insurance transaction data.'" Appx138. Because "claim 81 recites a method of processing an 'electronic communication comprising first digital data in N_1 identifiable data fields, . . . wherein at least some of the N_1 identifiable data fields comprise insurance transaction data,'" the Board concluded that "the claimed method is 'used in' the administration or management of insurance claims because claim 81 explicitly recites the method's usage in managing insurance transaction data." Appx140. Thus, *Unwired Planet* has no relevance here, as the Board properly concluded that the claims supported CBM eligibility. *Unwired Planet, LLC v. Google Inc.*, 841 F.3d 1376, 1380 (Fed. Cir. 2016); *see also* Appellant's Br. at 31.

II. The Board Properly Concluded that Claims 1, 6, 8, 9, 12, 13, 15, 20, 21, 24, 25, 27, 30, 36, 42–45, and 49–52 of the '020 Patent Are Directed to Patent Ineligible Subject Matter Under 35 U.S.C. § 101

A. The Claims Are Directed to Ineligible Subject Matter Under 35 U.S.C. § 101

As a preliminary matter, none of ICS' new arguments regarding a "buffer computer" or claim construction of "fields" (*see* Appellant's Br. at 10–13, 16–27) should be considered because ICS is making those arguments for the first time on appeal and thus they have been waived. However, even if this Court were to consider these new arguments, they are insufficient to convert the abstract idea of receiving and routing data claimed in the '020 and '609 patents into patent-eligible subject matter. Additionally, neither patent is directed to a technological invention because they merely claim conventional computer elements (including a conventional "buffer computer") arranged in a conventional manner, as opposed to providing an improvement in "computer functionality."

1. ICS' New Argument that a Buffer Computer Renders the Claimed Subject Matter Patentable Under 35 U.S.C. § 101 Should Be Rejected

ICS argues for the first time on appeal that "the Buffer computer, with its non-generic software, is a tangible structure that provides the improvement to the prior art technology," and that "[t]he Challenged Claims recite the technological invention described in the specification as the Buffer computer." Appellant's Br. at 16-17. The only example ICS provides is of claim 27 of the '020 patent, in which, ICS insists, the term "digital device" correlates to a "buffer," the term "field" correlates to ICS' newly offered construction of "field," the term "parsing" correlates to "analyzing the received fields based on the labels," and the term "portions" correlates to a "first portion (text)" and a "second portion (image)." *Id.* at 17. But ICS never made these arguments below and therefore waived them. *See In re Watts*, 354 F.3d at 1367–68 ("[O]ur review of the Board's decision is confined to the 'four corners' of th[e] record. . . . [I]t is important that the applicant challenging a decision not be permitted to raise arguments on appeal that were not presented to the Board."); *see also Redline Detection, LLC*, 811 F.3d at 450 (finding new arguments waived and refusing to address them).

ICS' new argument concerning claim 27 also fails on the merits. Indeed, it reveals that ICS is not improving the function of the computer, but rather arranging conventional elements in a conventional matter. Though the words "buffer computer" do not appear anywhere in claim 27, ICS still asserts that a "Buffer Computer supplements the operations of the legacy insurance claims processing computer system (#350), by storing and displaying the data that is incompatible with the legacy computer system." Appellant's Br. at 10. This is supposedly achieved by "[p]lac[ing] the following on the desk of the insurance claim examiner: [1] The buffer computer or a computer linked directly to the buffer computer (311); [2] A terminal (351) connected directly to the legacy computer system (350)" (*Id.* at 13) so that "[t]he insurance claims adjudicator now has the insurance claim text form displayed on the monitor 351 connected to the legacy computer, and the insurance claim attachment displayed on the monitor 311 connected to the Buffer computer" (*Id.* at 14). However, this arrangement merely described a conventional process of using two computers to view different types of data. As the Board has found, and as the Federal Circuit has confirmed in *Enfish LLC v. Microsoft Corp.*, 822 F.3d 1327, 1338 (Fed. Cir. 2016), "generalized steps to be performed on a computer using conventional computer activity" are patent ineligible, and ICS' supposedly novel method of "receiving data with fields and routing or copying a portion or subset of the fields" is, as the Board noted, merely "an improvement to data processing performed by a mainframe computer system or similar system," ***not*** an improvement in "computer functionality." Appx31.

Further, ICS does not even explain how this new argument would apply to claims other than claim 27 of the '020 patent. ICS does not provide any explanation or citations to any other independent claims regarding this language. Notably, ICS fails to provide a ***single citation*** to the specification of the '609 patent on this point, because indeed there is no support therein. At bottom, ICS' inaccurate, self-serving description of claim 27 of the '020 patent does nothing to cast doubt on the well-reasoned decision of the Board. *See* Appx29 ("claim 27 recites a method that includes receiving and parsing a data stream with N fields and routing portions of the N fields to networked components. . . . [W]e determine that the subject matter of the challenged claims, when considered as a whole, is directed to the abstract idea of transmitting or copying information from a source to a destination. In particular, the complete record persuades us that the idea of transmitting or copying information from a source to a destination represents a disembodied, well-known concept. . . .”); Appx40 (“[W]e determine that the recited ‘digital device operatively coupled to first and second networked components’ can be at least one of a personal computer, legacy computer, network server, or buffer computer. The complete record does not persuade us that the ‘digital device operatively coupled to first and second networked components’ requires more than generic computer components.”).

B. ICS’ New Proposed Construction of “Field” Is Not Supported by the Record

The Board properly “d[id] not find that the specification of the ’020 patent teaches the ‘fields’ of the challenged claims function differently than what the ’020 patent describes as having been previously available.” Appx32; Appx99. Nonetheless, ICS is now attempting to improperly advance an entirely new claim construction of the term “field,” in an apparent effort to make the challenged claims appear more “technical.” But ICS’ new proposed construction should not be considered. *See In re Watts*, 354 F.3d at 1367–68; *Redline Detection*, 811 F.3d at 450.

ICS’ new claim construction argument also fails on the merits. ICS now argues that the term “field” should be construed as “a delimited alpha-numeric character string." Appellant's Br. at 24. ICS further argues, again for the first time, that "the term 'field' should be construed to mean 'data comprised of "label data" and "content" data.'" *Id.* at 26.[1] In fact, the specification of the '020 patent actually militates ***against*** a finding that the "fields" include "data comprised of 'label data' and 'content' data." For example, claim 1 of the '020 patent recites "N ***fields***, each field having a respective ***Nth field label***." Appx214(Claim 1) (emphasis added). Thus, the definition of "field" cannot itself include a "field label" because the "field label" is recited as a separate element.

To the extent ICS contends the Board's construction of "field" was in error, this Court's inquiry should focus on whether the Board erred in choosing not to construe the term "field" based on the ***original*** proposed construction advanced by ICS. In both Patent Owner's Response brief for the '020 patent and Patent Owner's Response brief for the '609 patent, ICS proposed that "the broadest reasonable interpretation of the term 'field' is computer software field." Appx894; Appx976; Appx1040. But the Board did ***not*** err in rejecting ICS' original proposed construction, correctly noting that, in contrast to *Enfish*, in which "the claims are not simply directed to ***any*** form of storing tabular data, but instead are specifically directed to a ***self-referential*** table for a computer database," the recited "fields" of the '020 and '609 patents "are not directed to any specific form of 'fields.'" Appx31 (quoting *Enfish*, 822 F.3d at 1337 (emphasis in original)); Appx99. Moreover, the Board noted that "[h]ere, claims 1 and 15 recite a 'digital device,' 'computer network,' 'first network component,' and 'second network component.' The claims do not recite an improvement in computer-related technology, 'such as a chip architecture, an LED display, and the like.'" Appx31; Appx98. Instead, "the challenged claims invoke computers merely as a tool." Appx. 31 (quoting *Enfish*, 822 F.3d at 1338 ("patent-ineligible claims at issue in other cases. . . recited generalized steps to be performed on a computer using conventional computer activity")); Appx99.

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[1] As with its arguments regarding a "buffer computer," ICS' appeal brief fails to provide a ***single citation*** to the specification of the '609 patent to support its new argument about "fields."

As the Federal Circuit has made clear, a claimed invention is not an improvement to a computer's operation if it only purports to increase the speed of a process by using a generic computer. *See FairWarning IP, LLC v. Iatric Sys., Inc.*, No. 2015-1985, 2016 WL 5899185, at *4 (Fed. Cir. Oct. 11, 2016) (explaining the distinction between an improvement in a computer's operation versus increasing the speed of a process by merely using a computer). The claimed invention of the '020 and '609 patents does not improve the way computers operate, but, as the Board noted, instead purports to increase the efficiency of processing insurance claims by using generic computer components and the conventional method of entering data into a form. Appx23 ("[w]e, thus, find that the '020 patent is directed to solving inefficiencies in a claims processing system that is not fully computerized. . . ."); Appx91.

C. The Challenged Patents Merely Computerize a Process that Can Be Performed Manually

The challenged patents acknowledge that at the time of the alleged inventions, there already existed commercial software to allow entry of data into electronic fields instead of a paper form. Appx208(13:18–34) ("commercial software packages, such as LOTUS NOTES™, have been designed with the capability of addressing combinations of text and graphics files. . . . It is possible. . . that the software needed to implement the preferred embodiment of the present invention can be developed within the frame work of the environment created by something such as LOTUS NOTES™."); *Id.* at 12:30–44.

ICS attempts to argue that the challenged patents overcome a purported problem of "data incompatibility," because they "enable [ ] display of all necessary data in a computer environment wherein the legacy computer system (e.g., mainframe computer) is to be preserved, but the legacy computer system is incompatible with certain types of necessary data (e.g., insurance claims attachments such as x-rays)." Appellant's Br. at 10. Supposedly, the challenged patents achieve this goal by "add[ing] a buffer computer to the legacy computer system" and "load[ing] AIC software onto the computers," where, allegedly, "[t]he AIC [Attachment Integrated Claim] software converts a generic computer into a non-generic computer." *Id.* at 11–12. However, as the Board correctly pointed out, "the challenged claims require no more than generic computer components performing generic computer functions and conventional activities." Appx154.

As the challenged patents recognized, it was standard practice for "a paper PAC [Prior Approval Claim] form [to be] filled out. . . and, along with the substantiating x-ray is mailed to the patient's insurance company" and that "[u]pon entering the mail room of the insurance company, . . . data from the PAC form is then entered into the company's mainframe computer," and the "x-ray is then manually delivered to the reviewing dentist." Appx109 (citing '020 patent at 4:57–65). The challenged patents also recognized that "[s]canner[s] are now available that can digitize a dental x-ray" and that "many personal computers provide the graphics support needed to display the digitized x-ray." *Id.* (citing '020 patent at 3:21–22, 3:40–43). Thus, the '020 and '609 patents do nothing more than computerizing a process that the patents themselves recognized could be, and indeed was, performed manually.

D. The Claims Pose a Great Risk of Preemption

This Court has repeatedly found that one of the paramount considerations in the Section 101 analysis is whether the challenged claims preempt the use of an abstract idea. Appx27 (quoting *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (""The Supreme Court has made clear that the principle of preemption is the basis for the judicial exceptions to patentability," and "[f]or this reason, questions on preemption are inherent in and resolved by the § 101 analysis."), *cert. denied*, 136 S.Ct. 2511 (2016)); Appx95; Appx147. The challenged claims of the '020 and '609 patents seek to preempt the activity of transmitting and routing fields of data used in insurance claims processing in precisely the way this Court's precedent warns against, and ICS' arguments to the contrary should be rejected.

Recognizing that its claims pose a great risk of preemption, ICS asserts that the challenged claims do not preempt the use of any abstract ideas because the claims "do not preempt ***all*** means of moving data or portioning data," because "the claims recite parsing or copying data, but most of the claims require doing so using the identities or labels of fields." Appellant's Br. at 44. But that rationale is simply incorrect. Following this Court's precedent, the Board in the CBM review decisions at issue here recognized, "while preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility," Appx27; Appx95; Appx147–148; *Ariosa Diagnostics*, 788 F.3d at 1379 (citing *Alice Corp. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014)), and the fact that the claims preempt only part of a field "do[es] not make them any less abstract," *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363–64 (Fed. Cir. 2015), *cert. denied*, 136 S. Ct. 701 (2015). ICS also fails to provide a justification for challenged claims that do ***not*** require parsing or copying data "using the identities or labels of fields"; thus, ICS does not appear to dispute that those claims would ***entirely*** preempt the ability to transmit and route fields of data while processing insurance claims.

III. The Board Properly Concluded that Claims 81 and 83-88 of the '609 Patent Are Directed to Patent Ineligible Subject Matter Under 35 U.S.C. § 101

ICS did not cite to a single location in the '609 patent's specification to support its new argument regarding a "buffer computer" and new proposed claim construction for "fields," which further confirms that the '609 patent is directed to an abstract idea and lacks a technological invention. Thus, this Court should affirm the Board's finding that all challenged claims of the '609 patent are invalid.

The Board agreed with Appellees' explanation that "the challenged claims [of the '609 patent] are directed to a process of receiving information, storing it, and determining which of its parts to enter into a display." Appx146. Analogizing such claims to those found directed to an abstract idea in *Content Extraction* and *Cyberfone*, the Board concluded that "determining which parts of the information to enter into a graphical display is analogous to the step in *Content Extraction* of 'recognizing certain data within the collected data set.'" *Id.* The steps of receiving and storing information also were similar to the steps in *Content Extraction* of collecting data and storing the recognized data in a memory. *Id.*

Under step 2 of *Alice*, the Board rejected ICS' attempt to paint the "computer" as "integral to the claim because the computer 'facilitates the process in a way that a person making calculations or computations could not.'" Appx153 (citing Patent Owner's Resp. at 49). Nor did the Board accept ICS's argument that "the use of fields in the challenged claims enables functions that could not be performed easily by a person, such as automatically signifying fields that a user need not complete and automatically transferring information from one field to another." Appx153. Instead, the Board "adopt[ed] as [its] own" Appellees' argument that "the challenged claims require no more than generic computer components performing generic computer functions and conventional activities. Appx154. The Board could "discern nothing in the challenged claims requiring a novel machine or apparatus," and ICS itself conceded that "the hardware components recited by the Challenged Claims were known at the time the application leading to the '609 Patent was filed." Appx155 (citing Patent Owner's Resp. at 20). The challenged method also failed the machine-or-transformation test, since "the claimed method merely collects and organizes data," and thus the Board correctly found that the challenged claims were directed to ineligible subject matter under Section 101.

IV. The Board's Conclusion that Claims 1, 6, 9, 15, 20, 27, 42–45, and 49–52 of the '020 Patent Are Not Patentable Under 35 U.S.C. § 102 as Anticipated by Lech Is Supported by Substantial Evidence

Nearly all of ICS' arguments concerning Lech are premised on ICS advancing an entirely new claim construction of the term "fields." Specifically, ICS alleges that "[t]he Board erred because it never considered the lexicographic definition of fields" (Appellant's Br. at 24, 46), but this cannot be error by the Board because ICS never asked the Board to consider "the lexicographic definition of fields," having never offered any argument or explanation on the topic until this appeal. This new request was waived and should not be considered now. *See In re Watts*, 354 F.3d at 1367–68; *Redline Detection*, 811 F.3d at 450.

Even if the Court were to consider ICS' new claim construction of "field" and corresponding arguments, those arguments are unavailing. ICS now asserts that "[t]he lexicographic definition of 'field' of the '020 and '609 Claims: 'fieldM' = **LabelM** contentm." Appellant's Br. at 46. ICS relies on this newly proposed construction of "field" in order to argue that "[n]owhere in Lech are the data that are received by the computer 230 described as being comprised of 'fields', as 'fields' are defined above. The data that is received by 230 is either a bit map of a hardcopy document, or it is an Optical Character Recognition (OCR) software-analyzed version of the bit map." *Id.*

ICS goes on to make several more entirely new arguments in support of its position that the Board erred in finding that a hard copy document 100 of Lech "is preferably scanned in and fields of information on it are recognized using standard optical character recognition software," and that therefore "Lech discloses that the output from the scanner is sent to the computer 230 and that the output includes information in fields, as shown in Figure 2 of Lech, and therefore, discloses 'receiving a unitary data stream including N fields of data,' as required by claim 27." *Id.* Namely, ICS advances the new argument that "Optical Character Recognition doesn't recognize fields. Humans recognize fields. Optical Character Recognition recognizes characters." *Id.* at 47.

ICS' arguments are incorrect. The claims in Lech confirm that the fields in the digitized hard copy document are recognized by the scanner: Claim 1(b) of Lech recites "***recognizing portions*** of said hard copy documents ***corresponding to a first data field*** " and claim 9 recites "***recognizing portions*** of said hard copy documents ***corresponding to a second data field*** . . . ." Appx1089 (emphasis added). The specification of Lech also explained that "the scanner 210 stores ***all of the information extracted off of hard copy document 100***," and "the scanner memory 220 stores textual information recognized on the hard copy document 100. . . ." *Id.* (emphasis added).

Additionally, ICS advances the new argument that "Lech's data is NOT structured into fields until it is displayed. There is a difference between data 'already structured into fields' when received, and data 'structured into fields' after it is displayed and then further analyzed by the different modes of Lech." Appellant's Br. at 47. ICS offers no support for this argument and it is not supported by the record. Instead, as the Board correctly found, the specification of Lech confirms that the extracted fields in memory are "transmitted to computer 230": the "information from scanner memory 220 or main memory 250 **is transmitted to computer 230**." Appx56 (quoting Lech at 5:1-2) (emphasis added).

Because ICS' new claim construction for "fields" must not be considered, and because the data in Lech is transmitted from the scanner to the computer as "fields," the Board properly found that Lech anticipates claims 1, 6, 9, 15, 20, 27, 42–45, and 49–52 of the '020 patent, as discussed in more detail below.

A. The Board Properly Found that Lech Discloses a Digital Device Receiving a Unitary Data Stream Including Fields as Recited in Claims 1, 15, and 27

The Board properly found that Lech discloses a digital device receiving a unitary data stream including fields. Specifically, the Board found that "Lech discloses that 'scanner 210 stores all of the information extracted off of hard copy document 100 in the scanner memory 220" and that the 'extracted information is stored in two forms. . . as image information and textual information recognized on the hard copy document 100 by, for example, employing standard character recognition software.'" Appx55. The Board further found that "Lech discloses that the output from the scanner is sent to the computer 230 and that the output includes information in fields, as shown in Figure 2 of Lech, and therefore, discloses 'receiving a unitary data stream including N fields of data,' as required by claim 27." Appx56; *see also* Appx118–121, 125 (same finding for claims 1 and 15).

ICS' argument here depends on its newly raised and incorrect construction of fields. *See* Appellant's Br. at 49 ("As discussed at length above, the fields required by the Challenged Claims are computer software fields that are clearly distinguishable from any placement of information on a hard copy document" and "[e]ven assuming that the fields on a hard copy document could be considered 'fields' as recited in the Challenged Claims. . . , the scanner retrieves the text from those fields, not the fields themselves."). Because ICS' newly proposed claim construction should not be considered, and because the Board's finding of anticipation for claims 1, 15, and 27 did not even require construction of the term "fields," the Court should affirm the Board's findings.

B. The Board Properly Found that Lech Discloses Receiving an Incoming File Comprising a Set of Fields as Recited in Claims 42 and 50

The Board properly found that Lech discloses receiving an incoming file as a set of "fields." Specifically, the Board found that "Lech discloses that hard copy document 100 has fields of information" and the "scanner 210 stores all of the information extracted off of hard copy documents 100 in the scanner memory 220" "as image information [and] textual information recognized on the hard copy document 100," and then "information from scanner memory 220 or main memory 250 is transmitted to computer 230." Appx58. ICS' argument here rests on the exact same arguments about its newly raised and incorrect construction of "fields" as for claim 1, 15, and 27. Those arguments are insufficient to save these claims, and the Court should affirm the Board's finding that claims 42 and 50 are anticipated by Lech. *See id.*

C. The Board Properly Found that Lech Discloses Transferring Field Contents in Response to Field Labels in the Unitary Data Stream as Recited in Claim 1

As the Board properly noted, Lech discloses "N field labels included in the unitary data stream" as recited in Claim 1 because Lech's data stream must include "field labels" or "variable name[s]" in order to extract the information shown in Figure 2 to arrive at Figure 11. Appx121–122. Specifically, Figure 11 "lists data corresponding to the hard copy document of Fig. 2 and the associated variable or sub-file names." Appx287(3:62-63); Appx292(13:50-51). ICS now argues that Lech "does not indicate that the variable names. . . are received in any data stream," Appellant's Br. at 52, but this is incorrect. Data from the hard copy document of Figure 2 is transferred to the list of data shown in Figure 11 by associating each piece of data with a "variable" or "subfile name[]." Appx287(3:62-63);

Appx292(13:50-51). Therefore, the variable names are indeed received in a data stream in Lech. As for ICS' argument that Lech does not "disclose [] transferring the contents of a first subset [of] fields to a first network component and transferring the contents of a second subset [of] fields to a second network component in response to field labels included in the unitary data stream" (a separate aspect of claim 1), Appellant's Br. at 52, the Board correctly found that subsets of fields are transferred to different network components based on those variable or subfile names, *i.e.*, "field labels." Appx122–124. The Board's findings should be affirmed.

D. The Board Properly Found that Lech Discloses Transmitting Contents of Fields Based on Their Position in the Unitary Data Stream as Recited in Claim 15

The Board properly found that Lech discloses transmitting the contents of fields based on their position in the unitary data stream as set forth in claim 15. On this point, the Board agreed with Appellees that "Lech discloses fields of data in a set order" because "a template used to extract information from those fields" "save[s the data from identified fields] to subfiles for transmission to various application units. . . and different departments." Appx123–24. ICS argues that there "is no indication in Lech that the information is then transmitted in the same order it was extracted" or that "the determination of where the contents of the fields are transmitted is based on the order of the fields in the unitary data stream." Appellant's Br. at 55. However, Lech discloses that "data [ ] can be selected from the extracted data of Fig. 11 in accordance with **content instructions**," which "define portions of the stored document information required by a particular application unit." Appx286(2:43-51); Appx287(3:63-66) (emphasis added). Thus, the data for a particular application is selected and transmitted based on the ***position*** of the data fields shown in Figure 11 and the Board's decision should be upheld.

E. The Board Properly Found that Lech Discloses a Process Performed by a Server as Recited in Claim 42

1. The Computer Disclosed in Lech Is a Server

The Board properly relied on TriZetto's expert's testimony in finding that Lech discloses a server. In his deposition, Dr. Bysinger explained that a person of ordinary skill would consider computer 230 to be a server "dedicated to providing specific facilities to the application units," whereby "[t]he input on this server is only coming from the scanner. The output is going to multiple devices." Appx1091–1092. The Board agreed, finding that "when considering the deposition testimony in its entirety, we are not persuaded that one of ordinary skill in the art would fail to understand that computer 230 is a server." Appx59. Contrary to ICS' argument that Dr. Bysinger "conceded that computer 230 in Lech would not be considered a server," Dr. Bysinger in fact clarified that while "computer 230 is not a ***database server***," he ***would*** consider computer 230 a "***scanning server***." Appellant's Br. at 56 (emphases added). ICS' own brief acknowledges that Dr. Bysinger said computer 230 was a "scanning server" (*id.*) and so the Board's finding that computer 230 is indeed a server should be affirmed.

2. The Process Disclosed by Lech Is Performed by a Server

With respect to whether the process disclosed in Lech is performed by the server in Lech, the Board found that Lech discloses that "information provided by the user defines ***a template which is used to extract information off the document and associate the extracted information*** with a particular variable or subfile." Appx60 (quoting Lech at 8:68–9:2) (emphasis added). ICS ignores this evidence, reiterating its argument that computer 230 could not perform the process of claim 42 because it "does not use the identities of fields to copy contents of the fields to correlated fields" because "it is the user and not the computer that allegedly uses identities of fields to copy content between fields." Appellant's Br. at 57. However, as the Board noted, "[w]hile observing the split display, the user can input instructions to associate specific pieces of information on the hard copy document (for example, the vendor name indicated by . . . 232A) with particular subfiles in memory (for example, the vendor field next to . . . 232C . . .),” and thus the instructions input by the user cause the server to perform the recited process. Appx60. The Board’s findings should be affirmed.

F. The Board Properly Found that Lech Discloses Copying Contents of a Subset of Fields to Correlated Fields of a Second File as Recited in Claims 42 and 50

The Board properly found that Lech discloses copying the contents of certain fields to correlated fields in a second file. As the Board correctly concluded, “fields in Lech’s template are found on a digitized document image displayed on a computer screen by software,” and in any case, “claim 42 does not require the recited field to store a digital image.” Appx60–61. ICS argues that the left side of the display in Figure 3B of Lech “shows a document image” and “[e]xtracting information from a document image does not meet the elements of Claim 42 and 50 requiring ‘copying contents of a first subset of the set of N identifiable fields to correlated fields of a second file,’” but this argument fails because ICS is relying on its erroneous claim construction argument for “fields” to assert that a hardcopy document's fields could not "be used as a logic control device." Appellant's Br. at 58.

V. The Board's Conclusion that Claims 6, 8, 12, 13, 20, 21, 24, 25, 30, 36, and 42 of the '020 Patent Are Not Patentable Under 35 U.S.C. § 103 in View of Lech and Beizer Is Supported by Substantial Evidence

As explained above, the Board properly found that Lech discloses each and every element of independent claims 1, 15, 27, 42, and 50 of the '020 patent, as well as dependent claims 6, 9, 20, 43–45, 49, 51, and 52 of the '020 patent. Additionally, dependent claims 8, 12, 13, 21, 24, 25, 30, and 36 of the '020 patent were properly found obvious in view of Lech and Beizer.

Both before the Board and in this appeal, "Patent Owner present[ed] no separate arguments" for why these claims are not rendered obvious, counting on the fact that the Board would not find the challenged independent claims anticipated by Lech when in fact the opposite has happened. Appx127–128. Without any arguments to the contrary, there is no dispute that the Board properly concluded these claims are unpatentable in view of Lech and Beizer. This Court should affirm the Board's decision as to these claims.

CONCLUSION AND STATEMENT OF RELIEF SOUGHT

For the foregoing reasons, Appellees request that this Court affirm all of the Board's findings with respect to the unpatentability of all challenged claims.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

On June 2, 2017, the foregoing document was submitted to the Court, and thereby served on all parties, by the CM/ECF system.

/s/ *Gianni Cutri*

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7). According to the word processing system used to prepare this document, the brief contains 10,004 words.

/s/ Gianni Cutri